

### **REMARKS**

Claims 1-15 are pending. Claims 1-13 have been amended. Claims 14 and 15 are newly presented. Reconsideration and allowance of the present application based on the following remarks are respectfully requested.

#### ***Claim Rejections Under 35 U.S.C. § 112***

Claims 1-13 were rejected under 35 U.S.C. § 112, second paragraph. Applicants have amended the claims to more particularly point out and distinctly claim the subject matter that Applicants regard as their invention. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

#### ***Claim Rejections Under 35 U.S.C. § 102***

Claims 1-13 were rejected under 35 U.S.C. § 102(a) and (e) over Garito et al. (U.S. Publication No. 2003/0123828). Applicants respectfully traverse this rejection.

Claims 1 and 8 each recite, in part, an optical device (or method for making an optical device) that includes an upper cladding layer composed of at least two sub-upper cladding layers that is formed on a lower cladding layer.

The Office Action alleges that Garito discloses this feature. However, Garito discloses an polymer optical waveguide 400 with a superstrate 430 that is bonded to the top of waveguide 320 with a permanent adhesive 432 (See, for example, paragraph [0078] and Figure 8). Although the Office Action alleges that layers 432 and 430 are upper sub-cladding layers, layer 432 is actually an adhesive layer. Therefore, Garito actually discloses a single layer structure for superstrate 430. Accordingly, Garito fails to teach, or even suggest, an optical device (or method for making an optical device) that includes an upper cladding layer composed of at least two sub-upper cladding layers that is formed on a lower cladding layer, as recited in claims 1 and 8.

Claims 2-7 and 9-13 are believed allowable for at least the same reasons presented above with respect to claims 1 and 8 by virtue of their dependence upon claims 1 and 8. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

#### ***Allowable Subject Matter***

Applicants appreciate the Examiner's indication that claims 3 and 10 contain allowable subject matter and would be allowable if rewritten in independent form to include all of the limitations of their base claim and any intervening claim. In view of the Examiner's

indication, Applicants have added new claims 14 and 15 that include features similar to those of claims 3 and 10.

**Conclusion**

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

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Date: July 26, 2005